

REMARKS

All of the claims 1-16 stand rejected under either 35 U.S.C. § 102(e) as being anticipated by (lacking novelty over) Vilander (WO '748) or under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Vilander (WO '748) in view of either Iizuka '880 or Mitra (EP '726).

The rejection under 35 U.S.C. § 102(e) based on anticipation means that, in the Examiner's opinion, Vilander ('748) discloses, either expressly or inherently, each limitation of each of claims 1-3, 7-9 and 12-14, or in other words, that each of these claims is readable on Vilander's disclosure. The Examiner explains the manner in which he attempts to find such readability.

The rejections under 35 U.S.C. § 103(a) mean that, in the Examiner's opinion, the subject matter of each rejected claim would have been *prima facie* obvious to a person of ordinary skill in the relevant technology at the time such subject matter was invented. The Examiner explains the manner in which he finds obviousness in the subject matter of each of the rejected claims.

Applicant respectfully **traverses** these rejections because, as explained below, Vilander's disclosure not only fails to "anticipate" Applicant's independent claims 1, 7 and 12, but also is at **cross-purposes** with Applicant's claimed (and disclosed) invention.

In this regard, Applicant respectfully submits that the Examiner has **misinterpreted** Applicant's claims and/or Vilander's disclosure/teaching.

The following limitation, or its equivalent, appears in each of the independent claims 1, 7 and 12:

The connection station...[has] dedicated resources allocated to terminals which are connected to said station, and common resources that can be used by any terminal connected to such station if said any terminal's dedicated resources are insufficient.

To the **contrary**, Vilander teaches the use of shared resources unless the queue length exceeds a given threshold, i.e., the shared resources are deemed to be insufficient, in which case a **dedicated** channel may be allocated to handle the higher bit rate.

Thus, Vilander's distribution of resources is completely **opposite** to that defined in Applicant's independent claims 1, 7 and 12. Since Vilander does not disclose, either expressly or inherently, each limitation of the independent claims 1, 7 and 12, and since these claims thus are not readable on Vilander's disclosure, Applicant respectfully submits that Vilander is **incapable** of anticipating Applicant's independent claims 1, 7 and 12, whereby Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of **claims 1-3, 7-9 and 12-14 under 35 U.S.C. § 102(e)**.

Also, since, as explained above, Vilander does not disclose or even suggest (because of Vilander's **contrary** teaching) all of the features/limitations of the remaining dependent claims 4-6, 10, 15 and 16, Applicant respectfully submits that the Examiner has not made out a *prima facie* case of obviousness of these rejected dependent claims.

More specifically, because of the deficient and **contrary** teaching/disclosure of Vilander, a person of ordinary skill in the art would not have (and could not have) modified Vilander's disclosure with Iizuka's disclosure. Furthermore, even if the disclosures of Vilander and Iizuka were combined (for some unknown reason), it is clear that the combination is **incapable** of

producing the subject matter of each of claims 5, 10 and 15, or any subject matter which would have rendered these claims obvious to one of ordinary skill in the art.

Similarly, with respect to claims 6, 11 and 16, and again because of the above-described **contrary** teaching of Vilander, a person of ordinary skill in the art would not have combined Mitra's disclosure with that of Vilander, and even if (for some unknown reason) such a combination were made, it is clear that there would not be produced the subject matter of any of claims 6, 11 and 16, or subject matter which would have rendered obvious these claims.

The above amendments to independent claims 1, 7 and 12 are made only for the purpose of clarification and not to overcome any prior art. These amendments may assist the Examiner in the **proper interpretation** of Applicant's claims.

In summary, then, Applicant respectfully submits that Applicant's claims 1-16 (when properly interpreted) are not anticipated by Vilander (when properly interpreted) and/or would not have been obvious from Vilander in view of either Iizuka '880 or Mitra (EP '726).

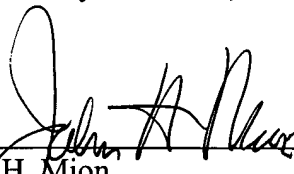
Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 102(e) and 103(a) and to find the application to be in condition for allowance with all of claims 1-16; however, if for any reason the Examiner feels that the application is not now in condition for allowance, Applicant respectfully requests the Examiner to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant files concurrently herewith a Petition (with fee) for an Extension of Time of Two Months. Applicant hereby petitions for any extension of time which may be required to

AMENDMENT UNDER 37 C.F.R. § 1.111
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maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



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